IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.548 of 1995
Date of decision:27.10.2006

The Commissioner of Income tax (C) Ludhiana

....Petitioner

versus

M/s. Oswal Woollen Mills Limited, Ludhiana

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. SK. Garg Narwana, Advocate, for the revenue.
Mr. Sanjay Bansal, Advocate, for the respondent.

JUDGMENT:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh arising out of its order dated 26.10.1994 in ITA No.1047/Chandi/86, for the assessment year 1974-75:-

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the assessee was entitled to interest under section 214 of the Income Tax Act, 1961?"

The assessee filed its return for the assessment year 1974-75. The tax determined came to be lessor amount than the advance tax already paid by the assessee. Tax liability was further reduced as a result of order of the CIT(A). The assessee applied for interest under section 214 of the Act in addition to interest under sections 244 and 244(1A) of the Act. This prayer was rejected by the Assessing Officer but the CIT(A) accepted the claim, which was upheld by the Tribunal.

Stand taken on behalf of the revenue is that right of the assessee under section 214 of the Act must be determined by reference to

the date of the first or original assessment made and not the date of order of the Assessing Officer as a result of order passed in appeal. It was also submitted that some of the payments of advance tax were made beyond the stipulated date and, therefore, such payments could not be treated as advance tax payments.

Learned counsel for the assessee submitted that the question whether delayed payment of advance tax could be treated as advance tax, has been gone into in judgments of this Court in **Commissioner of Income Tax, Patiala-II v. Rohtak Delhi Transport P.Limited,** (1981) 130 ITR 777, which was followed in **CIT v. Roadmaster Industrties of India (P) Limited**, (1992) 193 ITR 639 (P&H), apart from judgment of Allahabad High Court in **CIT v. Praveen Kapoor,** (2005) 278 ITR 71, judgment of Single bench of this Court in **Punjab Small Industries and Export Corporation Limited v. Inspecting Assistant Commissioner of Income Tax (Assessment) and another,** (2005) 278 ITR 92 and Single Bench Judgment of the Madras High Court in **Precot Mills Limited v. CIT,** (2000) 245 ITR 464. It was also submitted that the date from which the interest was payable was Ist April next following the financial year to the date of regular assessment year.

We have considered the rival submissions and perused the record.

We find merit in the contention raised on behalf of the assesseee that the matter is covered by earlier judgments of this court referred to above. No judgment taking a contrary view has been cited before us by the learned counsel for the revenue.

Accordingly, the question referred is answered against the revenue and in faovur of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

October 27, 2006 (Rajesh Bindal)
'gs' Judge